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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/158,099	09/22/98	MIWA	K 0163-0707-2X

022850 IM22/0515  
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EXAMINER

PACHECO, L

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 05/15/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application N .

09/158,099

Applicant(s)

MIWA ET AL.

Examiner

Liza M Pacheco

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1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☒ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

## Attachment(s)

- 14) ☒ Notice of References Cited (PTO-892)
- 15) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 17) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 18) ☐ Notice of Informal Patent Application (PTO-152)
- 19) ☐ Other: .

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 4, 6, 8 and 9 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Regarding claims 1, 4 and 5, line 4, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). It is also point out that the use of the terms "characterized in that" and "comprises" in line 2 of the claims is redundant. Correction and/or clarification are required.
4. Regarding claims 4 and 8, lines 7 and line 3, respectively, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).
5. Regarding claims 5 and 9, the phrase "or other" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by

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"or other"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

*Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by A. Radjai et al. (Effect of Electromagnetic Vibrations on the Microstructure of Al-Si Alloys, abstract of the Japan Institute of Metals, p. 245).

Radjai et al. discloses a method of refining microstructure of Al-Si alloys containing suspended non-metal particles, in this case silicon particles, in which a high-energy vibrating force consisted of electric and magnetic fields is applied simultaneously during the solidification of the molten metal, (abstract, lines 1-7). The reference disclosed that the cavitation phenomenon was a main responsible for the crushing of the suspended silicon particles (abstract, lines 12-15). As it is well known in the art, cavities in the molten metal will collapse due to the high pressure generated in the cavitation process, crushing the metal crystal particles and yielding a refine microstructure as shown by Radjai et al.

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Radjai et al. also discloses the moving of the solid particles and the non-metal suspended particles due to the imposition of high energy vibrating force, in this case the imposition of an electric current and a magnetic field on the molten metal during the process of solidification (abstract, lines 12-13). The solid particles were reduced in size by the vibrations and they were agglomerated and repelled to the outer surface after the start of the solidification, (abstract, lines 12-15).


*Conclusion*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Liza M Pacheco whose telephone number is (703) 306-5713. The examiner can normally be reached on Monday-Thursday 7:30am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (703) 308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3599 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
Liza Pacheco  
May 8, 2000

  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1722 5/8/00